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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,406	01/22/2002	Harlan T. Beverly	ITL.0702US	5109

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EXAMINER
TAYLOR, NICHOLAS R

ART UNIT	PAPER NUMBER
2141	

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/054,406	BEVERLY, HARLAN T.
	Examiner	Art Unit	
	Nicholas R. Taylor	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>05 July 2004</u>.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-32</u> is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-32</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>22 January 2002</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage

application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1-32 have been presented for examination and are rejected.

Response to Arguments

2.   Applicant's arguments filed July 5th, 2005 with respect to claims 1-32 have been

considered but are moot in view of the new ground(s) of rejection.

Claim Objections

3.   Claims 4, 23, 24, and 25 are objected to because of the following informalities:

Grammar errors were introduced by amendment, in claims 23, 24, and 25 the

respective use of "to strip", "to prevent", and "to write", and in claim 4 "being read from

any of said first buffer". Appropriate correction is required.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

5.   Claims 31 and 32 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

Claim 31 refers to using "a size of the data elements", where it is unclear if it is referring to the "first data element", the "other data elements", or even a randomly selected data element.

Claim 32 refers to using "the data size" where it is unclear to which data the language is specifically referring.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.   Claims 1-2, 4-9, 11-12, 14-19, and 21-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leung (US Patent 6,490,280) and Janoska et al. (US Patent 6,539,024).

8.   As per claims 1, 11, and 21, Leung teaches a method comprising:

identifying a first data element to be removed from a data stream including other data elements; (Leung, column 7, lines 12-19)

and preventing the first data element from being read from said first buffer (Leung, column 8, lines 50-65; column 9, line 65 to column 10, line 14; column 10, lines 48-65).

However Leung fails to teach writing said first data element into a first buffer separate from one or more buffers storing the other data elements. Janoska teaches a method for buffering data cells from a data stream (Janoska, column 2, lines 27-41) by putting first data elements in buffers separate from other data elements (Janoska, column 5, lines 28-49).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have combined Leung and Janoska to provide the buffering system of Janoska in the system of Leung, because doing so would enable efficient buffering memory usage in a network communication system (Janoska, column 1, lines 57-61).

9.   As per claims 2, 12, and 23, Leung-Janoska teaches the system further wherein identifying a first data element to be removed includes identifying the location of virtual local area network tags within the data stream (Leung, column 7, lines 12-19).

10.   As per claims 4, 14, and 25, Leung-Janoska teaches the system further wherein preventing the first data element from being read from any of said first buffer includes writing the first data element into the first buffer and then overwriting said first data element in said first buffer with one of said other data elements (Leung, column 9 line 65 to column 10, line 14, and column 10 lines 47-65, wherein the frame length is decreased, so that unwanted data elements are not copied onward to the FIFO and are left to be overwritten).

11.   As per claims 5, 15, and 26, Leung-Janoska teaches the system further wherein

writing the other data elements into one or more buffers includes writing the other data

elements into one or more other buffers having a size comparable to the size of said

first data element (Leung, column 9, lines 6-38).

12.   As per claims 6, 16, and 27, Leung-Janoska teaches the system further including

producing a contiguous uninterrupted output data stream with said first data element

removed (Leung, column 9 line 65 to column 10, line 14).

13.   As per claims 7, 17, and 28, Leung-Janoska teaches the system further including

receiving a data stream including said first data element and said other data elements

and distributing said other data elements to a plurality of buffers (Leung, column 9 line

65 to column 10, line 14).

14.   As per claims 8, 18, and 29, Leung-Janoska teaches the system further including

reading said other data elements out of said plurality of buffers through a multiplexer to

generate a contiguous data stream (Leung, column 9 line 65 to column 10, line 14).

15.   As per claims 9 and 19, Leung-Janoska teaches the system further including

receiving a data unit that includes two data elements, storing one of said two data

elements in a first buffer and the other of said two data elements in a second buffer

(Leung, column 9, lines 6-38, wherein multiple data elements of a frame are spread across multiple buffers).

16.   As per claim 22, Leung-Janoska teaches the system further wherein said system is an Ethernet adapter (Leung, column 3, lines 35-38).

17.   As per claim 24, Leung-Janoska teaches the system further wherein said control prevents the first data element from being read from any of said buffers (Leung, column 10, lines 48-65).

18.   Claims 3, 10, 13, 20, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leung (US Patent 6,490,280) and Janoska et al. (US Patent 6,539,024), further in view of Morrissey et al. (US Patent 5,553,302).

19.   As per claims 3 and 13, Leung-Janoska teaches the above yet fails to teach wherein preventing the first data element from being read from said first buffer includes preventing said first data element from being written to any of said one or more buffers.

Morrissey teaches a frame transfer system that prevents specified data elements from being written to buffers in providing a continuous data stream (Morrissey, column 7, lines 4-17). It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have combined Leung-Janoska and Morrissey to provide the write prevention of Morrissey in the system of Leung-Janoska, because doing so would

enable enhanced system throughput of continuous data streams (Morrissey, column 1,

lines 27-30).

20.   As per claims 10, 20, and 30, Leung-Janoska teaches the above yet fails to

teach including outputting one of said two data elements through a first multiplexer and

outputting the other of said data elements through a second multiplexer.

Morrissey teaches a frame transfer system that sends different data elements

through first and second multiplexers (Morrissey, column 13, lines 42-49). It would have

been obvious to one of ordinary skill in the art, at the time the invention was made, to

have combined Leung-Janoska and Morrissey to provide the write prevention of

Morrissey in the system of Leung-Janoska, because doing so would enable enhanced

system throughput of continuous data streams (Morrissey, column 1, lines 27-30).

Conclusion

21.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action.   Accordingly, **THIS ACTION IS MADE FINAL**.   See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Nicholas Taylor whose telephone number is (571) 272-

3889. The examiner can normally be reached on Monday-Friday, 8:00am to 5:30pm,

with alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number

for the organization where this application or proceeding is assigned is (703) 305-3718.

Information regarding the status of an application may be obtained from the

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Nicholas Taylor
Examiner
Art Unit 2141

RUPAL DHARIA
SUPERVISORY PATENT EXAMINER